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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

MICHAEL CHRISMAN,

 Petitioner,

 v.

WARDEN JERRY HOWELL,

 Respondents.

Case No. 2:19-cv-01219-KJD-GWF

ORDER

Previously, the court noted a conflict of interest between petitioner and his retained attorneys. ECF No. 3. Petitioner has filed a response, which has satisfied the court's conditions for an informed waiver of the conflict of interest. ECF No. 8. Good cause appearing;

IT FURTHER IS ORDERED that respondents shall file a response to the petition, including potentially by motion to dismiss, within sixty (60) days of entry of this order, and that petitioner may file a reply within thirty (30) days of service of an answer. The response and reply time to any motion filed by either party, including a motion filed in lieu of a pleading, shall be governed instead by Local Rule LR 7-2(b).


IT FURTHER IS ORDERED that any procedural defenses raised by respondents to the counseled petition shall be raised together in a single consolidated motion to dismiss. In other words, the court does not wish to address any procedural defenses raised herein either in serial fashion in multiple successive motions to dismiss or embedded in the answer. Procedural

1 defenses omitted from such motion to dismiss will be subject to potential waiver. Respondents
2 shall not file a response in this case that consolidates their procedural defenses, if any, with their
3 response on the merits, except pursuant to 28 U.S.C. § 2254(b)(2) as to any unexhausted claims
4 clearly lacking merit. If respondents do seek dismissal of unexhausted claims under § 2254(b)(2):
5 (a) they shall do so within the single motion to dismiss not in the answer; and (b) they shall
6 specifically direct their argument to the standard for dismissal under § 2254(b)(2) set forth in
7 Cassett v. Stewart, 406 F.3d 614, 623-24 (9th Cir. 2005). In short, no procedural defenses,
8 including exhaustion, shall be included with the merits in an answer. All procedural defenses,
9 including exhaustion, instead must be raised by motion to dismiss.

10 IT FURTHER IS ORDERED that, in any answer filed on the merits, respondents shall
11 specifically cite to and address the applicable state court written decision and state court record
12 materials, if any, regarding each claim within the response as to that claim.

13 IT FURTHER IS ORDERED that, notwithstanding Local Rule LR IC 2-2(g), paper copies
14 of any electronically filed exhibits need not be provided to chambers or to the staff attorney,
15 unless later directed by the court.

16 DATED: 9/13/2019

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18 KENT J. DAWSON
19 United States District Judge
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